

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Attorney Docket No.: **01-1518**

Appl. No.: **10/616,449**

Applicants: **Robert T. Baum**

Filed: **July 8, 2003**

TC/A.U.: **2434**

Examiner: **Jacob Lipman**

Confirmation No.: **1038**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**SUBMISSION OF SUBSTITUTE APPEAL BRIEF
IN
RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF**

The Notice of Non-Compliant Appeal Brief dated November 18, 2009 indicated that the appeal brief submitted on October 27, 2009 was considered to be non-compliant because the brief did not present an argument under a separate heading for each ground of rejection on appeal.

Submitted herewith is a substitute Appeal Brief including an argument under a separate heading for each ground of rejection.

In view of this submission it is respectfully submitted that the identified defects of the previously submitted appeal brief have been corrected and the instant substitute Appeal Brief should now be ready for consideration.

Appellant requests that the Board consider the Appeal Brief and reverse each of the outstanding grounds of rejection¹.

Any arguments made in the Appeal Brief pertain *only* to the specific aspects of the subject matter *claimed*. Any arguments are made *without prejudice to, or disclaimer of*, the Appellant's right to seek patent protection of any unclaimed (e.g., narrower, broader, different) subject matter, such as by way of a continuation or divisional patent application for example.

Respectfully submitted,

December 16, 2009

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¹ As Appellant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Appellant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, ability to combine references, assertions as to patentability of dependent claims) is not a concession by Appellant that such assertions are accurate or such requirements have been met, and Appellant reserves the right to analyze and dispute such in the future.